

## **REMARKS**

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner.

Upon entry of the instant Amendment, Claims 1-19 and 21-27 will be all of the claims presently pending before the Examiner. Instantly, Claims 1-19 and 21-26 are amended. Claim 27 is newly added. These amendments are not intended to change the overall scope of the claims, but rather they are made simply to bring the claims into better accord with present U.S. practices.

Applicants respectfully submit that no new matter has been added by the present amendments. Support for the amendments can be found generally throughout the Applicants' disclosure.

### **I. Species Election Requirement**

A separate species for each of the following has been requested by the Examiner:

- a) a thermoplastic material, and
- b) a microgel.

Applicants hereby provisionally elect the species of:

- a) thermoplastic polyurethanes (TPE-U); and
- b) peroxidically crosslinked, OH-modified styrene-butadiene rubber (SBR OH-modified), as thermoplastic material and microgel, respectively.

The same is disclosed at, *inter alia*, Page 29, Line 26 – Page 30, Line 4 of the Specification. Claims 1-19 and 21-26 encompass said species.

Applicants would, however, also like to note that under 35 U.S.C. § 1.141, an application may contain claims to a reasonable number of species as long as the



application includes an allowable generic claim embracing the species. Prior to the 1978 amendments, Rule 141 provided the number of species could not exceed five. This, of course, was changed to "a reasonable number," thereby leaving it to the Office to determine the "reasonable" number that should be examined. Such a decision should be made in light of the fact that irrespective of whether the claims are able to support separate patents and comprise independent and distinct inventions, if the search and examination of the entire application can be made *without serious burden*, the Office must examine the entire application on its merits. (E.g., MPEP 803).

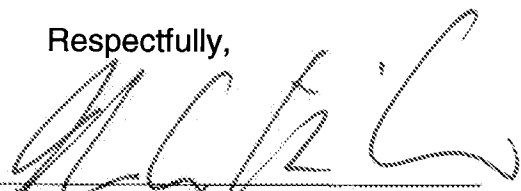
In this instance, it is respectfully submitted that the examination of the species at issue is not unduly burdensome and, therefore, the species election should be withdrawn and all should be examined together.

If there are any further issues in this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

The USPTO is hereby authorized to charge any fees, including any fees for an extension of time or those under 37 CFR 1.16 or 1.17, which may be required by this paper, and/or to credit any overpayments to Deposit Account No. 50-2527.

Respectfully,

By



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